TeleCard Regulatory Services, Inc.

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July 1, 1996

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street
Washington, DC 20554

RE: CC Docket No. 96-128
Comments of Voice Telephone Co.

Enclosed please find an original and fourteen (14) copies of the comment of Voice Telephone Company for filing in the above captioned docket. Also please find a copy of the comments in WordPerfect 5.1 format on the enclosed computer disk.

Sincerely,

Jerry W. Hendricks

Enclosures

C+14

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of	)	
	)	
Implementation of the	)	CC Docket No. 96-128
Pay Telephone Reclassification	)	
and Compensation Provisions of the	)	
Telecommunications Act of 1996	)	

COMMENTS OF VOICE TELEPHONE COMPANY

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Voice Telephone Company

Dated: July 1, 1996

Before the
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COMMENTS OF VOICE TELEPHONE COMPANY

Voice Telephone Company ("VTC"), by its consultants, respectfully submits these comments on the Notice of Proposed Rulemaking ("NPRM") released by the Federal Communications Commission ("Commission") in the captioned proceeding.

INTRODUCTION

VTC is a small prepaid telephone calling card issuer. It owns its own computer processor which is used for call accounting ("platform"), and purchases time from a carrier that is an access provider, under contract Cards are issued by VTC with the per minute price for the card fixed at the time of issuance.

VTC is one of many small companies. Small in this context is under Two Million Dollars ($2,000,000) in annual gross revenues generated. Additional call processing costs are extremely important to a small company because fixed equipment costs for call processing or handling are averaged over a much smaller volume of income.

The telecard market is an extremely competitive market that has been growing exponentially over the last few years. Regulatory compliance in the arena of this proposed rulemaking is also of extreme importance because it is estimated that there are a large number of small companies that will not comply with implementation of the rules promulgated by the Commission, if the rules are effected in such a way as to make compliance voluntary. "Voluntary compliance" would include rulemaking that requires a telecard provider to voluntarily obtain payphone database information, and to voluntarily obtain equipment necessary for the call processing, and to voluntarily hire additional staff to compute checks, payable by payphone, and to make sure that they are sent. Voluntary compliance is available when the party having an interest in the receipt of the funds is not in control of the accounting.

VTC asserts that rulemaking should occur in way that will result in an automatic compliance. Involuntary compliance results where the cost of the call compensation is added into the access charges that every reseller must pay. VTC advocates the commission adopt a rule that will require involuntary compliance. Involuntary compliance will result with the a Commission adoption of the carrier pays compensation mechanism.

VTC supports the Commission's tentative conclusion to adopt a carrier pays compensation mechanism, but on the basis that the "carrier" in question is the access provider, and not the telecard provider. Call completion tracking and the administrative burden added into the accounting systems of telecard providers will be a very large direct and indirect cost that is in addition to the cost of the call compensation, and is an inefficient method of implementing a method of payphone compensation. The interests of the public will not be served in the event that telecard providers are called upon to each duplicate the call tracking and accounting involved in a compensation mechanism other than that which may be established requiring a carrier to pay the compensation. Payment by the carrier will minimize transaction costs, and avoid unnecessary regulatory and administrative cost burdens on the telecard service providers, payphone providers and of importance, the consuming public.

Adopting the carrier pays compensation mechanism does require a focus on the issue of the application of the compensation as to those cards that have already been issued and are in the hands of the public. For example, if the access cost of a call to a telecard provider is 15 cents, and the average call duration is 4 minutes, adding 25 cents to the cost of placing a call raises the per minute cost to that provider by 6.25 cents, a 41% increase, to a level of 21.25 cents. Card prices to the consumer are currently at the 25 cent level, which means that existing cards would be processed at a loss if compensation is added immediately. The reason that existing cards would be processed at a loss is the fact that the issuance of the cards is a matter of contract with the user, consumer, with the distribution channels and is also a matter of the relations with the public. In the highly competitive market that exists many small companies will be forced out of business if carrier pays compensation is immediately implemented. Consumers will be the high profile losers in cases where telecard companies go out of business as a result of early imposition of the increased charges for the use of payphones. During the last year, there have already been a significant number of telecard providers that have gone out of business leaving thousands of consumers with card that are invalid. FCC action that contributes to additional companies going out of business, leaving additional consumers with cards that have been paid for and with no longer provide access, will result in a whole new wave of legislative oversight and scrutiny that is unneeded and unnecessary.

VTC asks the Commission to allow an adequate transition period to give the telecard industry time to adapt to whatever rules the Commission adopts. A phase in period is essential to permit processing of the already issued cards for which the pricing structure and tariffed rates have already been fixed. Additionally, telecard services are by their very nature prepaid, and pricing is established on a per minute fixed rate.

Imposition of a fixed per minute rate would seriously affect the telecard industry and be in contradiction to the simple pricing that is currently in effect.

The simplest compensation method that would be available to the commission would to allow payphone providers to require a coin deposit for the use of the payphone on 800 number calls. This solution, which might not be viewed favorably by the consuming public, would have the benefit of complete and accurate accounting by payphone, by call, and would eliminate all of the accounting and administration that will be required under the terms of any other rulemaking solution.

TELECARDS ARE A SUBSTANTIAL CONSUMER BENEFIT WHICH SHOULD BE PROTECTED IN THE COMMISSION'S PAYPHONE COMPENSATION RULES.

The term "calling card" includes all manner of telephone access cards, both postpaid and prepaid. "Telecards" are a type of calling card that is universally available to all purchasers, without discrimination, which allow call processing without the imposition of operator service charges. Prepaid calling cards are different from the calling cards that have been issued by carriers based upon creditworthiness. Prepaid cards can be purchased by any person having sufficient cash to pay for the card, without the requirement that the person have a telephone, or have credit. They are used by students in college, allowing them to bypass operator service charges involved in the carrier issued calling card. They offer enhanced services, such as voice mail, which allows a person who does not otherwise have a telephone, to be able to receive messages. Through telecards, telecommunications services are available to the public on a fixed price basis, without credit and without long term commitment. Historically, these terms have only been available to the most creditworthy. Telecards are currently providing access to telecommunications services to a large segment of the population that does not otherwise qualify for traditional service.

It is incumbent to maintain the low cost of service that is available through the prepaid calling card. With a prepaid card, a database accounts for the card on a real time basis. Eliminated in the process is the credit costs associated with the extension of credit to a customer. Also eliminated are the costs associated with the billing process. Where a company otherwise requires financing for its accounts receivable, those costs are also eliminated. A compensation mechanism that substantially modifies this simple accounting mechanism will greatly add to the cost of providing services to the consumer.

Substantial advertising expenses have been incurred by major carriers in order to insure that the consumer is aware of the carrier providing service for the placement of a call. With all of the advertising relating to making sure that consumers know the telecommunications provider, it should be clear that with telecards, when a consumer makes a point of sale purchase of a card, that the consumer has made a conscious decision as to the carrier that will be used. This is unlike the operator service providers, including AT&T, where there are charges that may not be acceptable if "negotiated" by the consumer. When an end user makes a telephone call from a payphone, the payphone provider is most likely under contract with an operator service provider that is paying a commission to the payphone provider. Because the payphone provider is entitled to compensation for calls using its equipment, VTC does not object to the addition of compensation for the provider to replace the compensation coming to that provider under the terms of most OSP contracts. However, call compensation should be reasonable in amount to compensate the payphone provider.

PAYPHONE COMPENSATION SHOULD BE BASED UPON ASSESSMENT ON TOLL FREE ACCESS PROVIDERS.

Assessment of payphone compensations should be on toll free access providers because it will minimize transaction costs, and will avoid the requirement of changes in the fixed fee minute pricing that telecards provide. It will also eliminate the need for small telecard providers to invest substantial amounts in technology that will provide call tracking and payment for calls that can better be tracked through the use of existing facilities currently provided by access providers. The technology required to comply with a provision making the telecard provider the responsible carrier would involve upgrades by relatively small companies that would enable them to not only identify whether a call originated from a payphone, but would also identify the owner of the payphone. Additionally, the system upgrades would necessitate the ability to then make payments to the multiplicity of payphone owners. Of importance in this context, is the fact that call tracking and payment are invisible to the access provider which means that payphone providers will be required to accept the statement of telecard providers (subject to audit) as to the calls subject to compensation. More importantly will be the companies electing to not report. In this context, the Commission could take a position similar to a proposal made by the Internal Revenue Service in the excise tax context. The preliminary position of the Internal Revenue Service was to require registration of the reseller, who, once registered, would then be required to file reports. Without such registration process, there will be a number of telecard providers who will not file reports, and will not make required payments. Again, simplicity in administration favors imposition of the carrier pays method of compensation for payphone providers.

If the Commission imposes the responsibility for monitoring and payment of payphone compensation on the telecard provider it will impose a degree of oversight that is not only unnecessary, but will add substantially to the consumer cost of using a telecard. Where there is an available mechanism for the imposition and collection of call compensation, that certainly must be looked to as the preferred method of administration. Requiring telecard providers to monitor and make payments, would result in the addition of a multiplicity of companies not necessary in the orderly collection and payment process. VTC supports the access carrier as the carrier for the carrier payment method of administration. If the "carrier" for administrative purposes is determined to be the telecard provider, we have moved to the level of the access purchaser, which generally will include at least 350-600 companies, all companies that would need regulatory oversight.

RULEMAKING WHICH POSITIVELY IDENTIFIES THE CIRCUMSTANCES THAT IDENTIFY A "COMPLETED CALL" FOR PURPOSES OF PAYPHONE COMPENSATION.

Because the 1996 Act specifies that payphone providers are to receive compensation for "completed calls", it is necessary to address the issue of when a call may have been completed. The VTC tariffs on file with the Commission and on file with states asserting jurisdiction include the following language:

> Timing begins when the called station is answered, as determined by standard industry methods generally in use for ascertaining answer, including hardware answer supervision in which the local telephone company sends a signal to the switch or the software utilizing audio tone detection. Voice Telephone will not bill for uncompleted calls.

The industry standard is that call completion occurs when the calling party reaches the called party. VTC is not able to bill for calls that reach its platform, but which are not connected with the calling party. Consumers would not accept being billed for calls reaching the platform, and such a practice, if adopted, would be contrary to industry billing practices. The Commission, in making a determination as to the definition of a "Completed Call", should certainly adopt the industry standard practices. The Commission has already held that a completed call is a communication in which a conversation or exchange of information took place between the calling and called parties. The Commission has always looked at the substance of the call and routing, making the determination that an intrastate call took place even though the call might have been routed through an out of state switch looking only to the fact that the call originated and terminated in the calling state. Similarly, the Commission has concluded that a call arrangement where a call has passed through a multiplicity of processing platforms constitutes a single call.

VTC supports a conclusion by the Commission that a call is not completed until the calling party is connected with the called party. An end user of telecommunications services provided by a telecard provider is utilizing the telecommunications network as a method of making voice or data contact with a called party, not for the purpose of contacting the billing and routing platform. The NPRM has sought comment on prevention of fraud relating to call completion, and the utilization of using the industry standard of definition that a completed call is one that connects a calling party to a called party will satisfy concerns about fraud

A caller certainly does not accept that a call has been completed where the called party has not been reached. The Commission should accept that as the generally accepted method of determination

NECESSITY OF TRANSITION PERIOD BEFORE IMPOSITION OF NEW PAYPHONE COMPENSATION RULES.

VTC asks that the commission allow an adequate transition to give it and the industry time to adapt to rules adopted by the Commission. The transition period would include allowing a period to allow for accounting changes required for cost and marketing for cards not only outstanding, but which will be issued in the future. Although possible, a per call charge could be imposed by the telecard provider. That would be as acceptable to the consumer as requiring a coin deposit for access to "toll free" 800 numbers.

Because there are large numbers of cards that are issued on fixed contract terms with consumers, it is essential a time be allowed to telecard providers that will allow them to make rate changes to include the new charges. Telecard providers are regulated not only by the Commission as to Interstate calls, but are regulated by the state regulatory commissions as to intrastate calls. Payphone compensation will apply on calls whether intrastate or interstate. Regulated companies have tariffs on file which must be amended to reflect changes imposed by the rulemaking, which will itself require a period of time.

Providing a date certain for the implementation of a new rate structure would be promoting existing business while at the same time accomplishing the goals of the Act. The industry, as well as consumers must be aware of pricing and pricing changes. VTC asks that there be at least six months as a transition period to enable it to make changes in contracts with its access provider, with its distribution companies, and with the public. A period less than six months will create a cost situation that could be terminal to the company, and to similarly situated companies.

If the Commission adopts the carrier pays method of compensation where the access provider pays the payphone provider few changes would be required. As indicated, six months would be a period of time that would be capable of being utilized. Other methods would require implementation of additional hardware and software, the development and implementation of which would be speculative.

CONCLUSION

For the following reasons, the Commission should adopt a Carrier pays payphone compensation plan:

1. Small business cost of implementation;
2. Consumer cost;
3. Consumer benefits;
4. Economic viability of existing telecard providers;
5. Preventing interference with existing consumer and distributor contracts;

Respectfully Submitted,

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Dated: July 1, 1996

Attachment A

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

o An oversize page or document (such as a map) which was too large to be scanned into the RIPS system.

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